



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 24, 1996

Mr. Ron M. Pigott
Assistant General Counsel
Texas Department of Public Safety
5805 N. Lamar Blvd. Box 4087
Austin, Texas 78773-0001

OR96-1000

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 40442.

The Texas Department of Public Safety (the "department") received a request for information seeking "all paper work that concerns my brother's narcotics investigation." You contend that the department may deny access to the information pursuant to section 552.027 of the Government Code.

In this instance, you explain that the requestor is the brother of an individual who is incarcerated. You state that the requestor's brother "had requested this same information on March 21, 1996, but because he is currently incarcerated, the department did not send the requested information to him."

You argue that the department may ignore or otherwise refuse to comply with the request pursuant to recently enacted section 552.027 of the Government Code, which permits governmental bodies to decline to accept or comply with requests for information submitted by inmates. Section 552.027 states:

(a) A governmental body is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility.

(b) Subsection (a) does not prohibit a governmental body from disclosing to an individual described by that subsection information held by the governmental body pertaining to that individual.

(c) In this section, "correctional facility" has the meaning assigned by Section 1.07(a), Penal Code.¹

Gov't Code § 552.027 (as added by Acts 1995, 74th Leg., ch. 302, § (1) (footnote added). You suggest that because Mr. Jairo Alvarado, the person submitting the request, is asking on behalf of a person who is in prison, Mr. Alvarado is acting as an inmate's agent and that, therefore, the department may decline to comply with the request. We agree with your construction for two reasons.

First, we are bound to construe statutes in ways so as not to produce an absurd or unreasonable result. *City of Wilmer v. Laidlaw Waste Sys. (Dallas), Inc.*, 890 S.W.2d 459, 465 (Tex. App.--Dallas 1994), *aff'd*, 904 S.W.2d 656 (Tex. 1995); *see State Highway Dept. v. Gorham*, 162 S.W.2d 934 (Tex. 1942); *Anderson v. Penix*, 161 S.W.2d 455 (Tex. 1942). A construction of section 552.027 that would permit a governmental body to decline to comply with a request submitted by an inmate, on the one hand, but that would require the governmental body to comply with one submitted by an inmate's agent, on the other, is absurd on its face. We decline to adopt such a construction.

Second, construing the provision to require a governmental body to comply with a request submitted by an inmate's agent while at the same time permitting that governmental body to ignore a request submitted by the inmate himself would entail a manifest circumvention of the provision and frustrate the obvious intent of the legislature when it enacted section 552.027.

We conclude that section 552.027 of the Government Code, which permits a governmental body to decline to accept or comply with a request for information that is submitted by an individual who is imprisoned or confined in a correctional facility, also permits a governmental body to decline to accept or comply with a request that is submitted by that person's agent.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous


¹ Section 1.07(a)(14) of the Penal Code provides:

"Correctional facility" means a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes:

- (A) a municipal or county jail;
- (B) a confinement facility operated by the Texas Department of Criminal Justice;
- (C) a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and
- (D) a community corrections facility operated by a community supervision and corrections department.

determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref.: ID# 40442

Enclosures: Submitted documents

cc: Mr. Jairo Alvarado
1145 N. West Street #8
Anaheim, California 92801
(w/o enclosures)